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Attorneys for Defendants

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ROBIN HUMPHREY, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

THE J.M. SMUCKER COMPANY and POST
CONSUMER BRANDS LLC,

Defendants.

Case No. 3:22-cv-06913-WHO

**STIPULATION AND ~~[PROPOSED]~~
ORDER REGARDING CLASS
CERTIFICATION SCHEDULE**

Judge: Hon. William H. Orrick

Pursuant to Fed. R. Civ. P. 15(a)(2), Plaintiff Robin Humphrey (“Plaintiff”), Defendant The J.M. Smucker Company (“Defendant J.M. Smucker”), and Defendant Post Consumer Brands LLC (“Defendant Post Consumer Brands”) (collectively, the “Parties”) respectfully submit this Stipulation Regarding the Class Schedule.

STIPULATION

WHEREAS, on November 4, 2022, Plaintiff filed her Complaint. ECF No. 1.

WHEREAS, on May 22, 2023, the Court issued an Order granting in part and denying in part Defendant J.M. Smucker’s Motion to Dismiss. ECF No. 34.

WHEREAS, the Court issued its initial scheduling order on July 18, 2023. ECF No. 43.

WHEREAS, Plaintiff’s Motion for Class Certification is presently due on April 5, 2024. *Id.*

WHEREAS, Defendant J.M. Smucker and Defendant Post Consumer Brands’ Opposition to the Motion for Class Certification is presently due on May 31, 2024. *Id.*

WHEREAS, Plaintiff’s Reply is presently due on July 12, 2024. *Id.*

WHEREAS, the Parties’ Class Certification hearing is scheduled for August 14, 2024 at 2:00 p.m. *Id.*

WHEREAS, the Parties have agreed, subject to the Court’s approval, to extend the deadline for Plaintiff’s Motion for Class Certification by 20 days in light of a scheduling conflict for Plaintiff’s counsel. *See* Declaration of L. Timothy Fisher ¶ 2. Specifically, the Parties agree that Plaintiff shall file her Motion for Class Certification on April 25, 2024, Defendant J.M. Smucker and Defendant Post Consumer Brands shall file their Opposition on June 20, 2024, and Plaintiff shall file her Reply on August 1, 2024. Accordingly, the Parties respectfully request to continue the hearing to September 4, 2024 at 2:00 p.m., or the next available hearing date thereafter that is convenient for the Court.

WHEREAS, good cause exists, and an extension of time will not prejudice any party or unnecessarily delay the litigation.

NOW, THEREFORE, the Parties stipulate, subject to the Court’s approval, that Plaintiff shall have until April 25, 2024 to file her Motion for Class Certification, that Defendant J.M. Smucker and Defendant Post Consumer Brands shall have until June 20, 2024 to file their Opposition, and

Plaintiff shall have until August 1, 2024 to file her Reply. Further, the hearing on Plaintiff's Motion for Class Certification will be continued until September 4, 2024 at 2:00 p.m.

IT IS SO STIPULATED.

Dated: January 8, 2024

BURSOR & FISHER, P.A.

By: /s/ L. Timothy Fisher

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Dated: January 8, 2024

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By: /s/ Michael J. Ruttinger

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Attorneys for Defendants

SIGNATURE ATTESTATION

Pursuant to Civil L.R. 5-1(i)(3), the filer of this document attests that all signatories have concurred in its filing.

By: /s/ L. Timothy Fisher
L. Timothy Fisher

DECLARATION OF L. TIMOTHY FISHER

I, L. Timothy Fisher, declare as follows:

1. I am admitted to practice before this Court. I am a partner at the law firm of Bursor & Fisher, P.A. and counsel of record for Plaintiff in this action. I submit this declaration pursuant to Civil L.R. 6-2(a) in support of the Parties' Stipulation regarding the Class Schedule. The matters stated in this declaration are within my personal knowledge. If called as a witness in this action, I could and would testify competently to the contents of this declaration.

2. The current deadline for Plaintiff's Motion for Class Certification in this matter is April 5, 2024. I recently discovered that I will be out of town on a family vacation from March 29, 2024 through April 5, 2024. Upon learning this, I contacted Defendants' counsel and asked that they agree to a short continuance of the class certification schedule. Defendants' counsel kindly agreed, subject to the Court's approval, to continue the deadlines as follows: (1) The deadline for Plaintiff's motion shall be continued from April 5, 2024 to April 25, 2024; (2) the deadline for Defendants' opposition shall be continued from May 31, 2024 to June 20, 2024; and (3) Plaintiff's reply shall be continued from July 12, 2024 to August 1, 2024. Likewise, the parties agreed, subject to the Court's approval, to continue the hearing from August 14, 2024 to September 4, 2024 at 2:00 p.m., or whatever date thereafter works for the Court.

3. There have been the following scheduling modifications, by stipulation or Court Order, in this case: (a) the Court granted the Parties' stipulation and reset the Case Management Conference from February 14, 2023 to May 10, 2023 and reset the Case Management Statement from February 7, 2023 to May 3, 2023 (ECF No. 21); (b) the Court granted the Parties' stipulation and reset the Case Management Conference from May 10, 2023 to June 21, 2023, and reset the Case Management Statement from May 3, 2023 to June 14, 2023 (ECF No. 24); (c) a clerks' notice was issued resetting the Case Management Conference from June 21, 2023 to June 20, 2023 (ECF No. 33); (d) the Court issued an order, which reset the Case Management Conference from June 20, 2023 to June 13, 2023, and reset the Case Management Statement from June 14, 2023, to June 6, 2023 (ECF No. 34); and (e) the Court granted the Parties' stipulation and reset the Case

1 Management Conference from June 13, 2023 to July 18, 2023. The time modification requested by
2 this stipulation will not prejudice any party or unnecessarily delay the litigation.

3 I declare under penalty of perjury under the laws of the United States that the foregoing is
4 true and correct. Executed on January 8, 2024 in Walnut Creek, California.

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6 /s/ L. Timothy Fisher
7 L. Timothy Fisher
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PROPOSED ORDER

The Court, having considered the Parties' Stipulation regarding the Class Schedule, and good cause appearing therefore, hereby orders as follows:

1. Plaintiff's Motion for Class Certification will be due by April 25, 2024.
2. Defendants' Opposition will be due by June 20, 2024.
3. Plaintiff's Reply will be due by August 1, 2024.
4. The hearing will be reset to September 4, 2024 at 2:00 p.m.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: January 8, 2024



HON. WILLIAM H. ORRICK
UNITED STATES DISTRICT JUDGE